

BOARD OF APPEALS
for
MONTGOMERY COUNTY

Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850
(240) 777-6600

Case No. A-5687

PETITION OF LEE ANN AND JAMES TEGTMEIER
(Hearing held December 5, 2001)

OPINION OF THE BOARD
(Effective date of Opinion, January 4, 2002)

This proceeding is a petition pursuant to Section 59-A-4.11(b) of the Zoning Ordinance (Chap. 59, Mont. Co. Code 1994, as amended) for a variance from Sections 59-C-1.323(a) and 59-B-3.1. The petitioners propose to construct a covered porch that requires a two (2) foot variance as it is within twenty (20) feet of the front lot line setback. The required setback is twenty-two (22) feet.

The subject property is Lot 13, Block L, Battery Park Subdivision, located at 5107 Wilson Lane, Bethesda, Maryland, in the R-60 Zone (Tax Account No. 00441397).

Decision of the Board: Requested variance **granted**.

EVIDENCE PRESENTED TO THE BOARD

1. The petitioners propose to construct a covered porch in the northwest section of the property.
2. Greg Weidemann, the petitioners' architect, testified that the property is a uniquely shaped lot, which narrows to approximately 38 feet at its northern tip. See, Exhibit No. 12. The property is a corner lot located at the intersection of Wilson Lane and Del Ray Avenue.
3. Mr. Weidemann testified that the covered porch would replace the one-story addition shown on Exhibit No. 14. Mr. Weidemann further testified that the variance is required for only a portion of the covered porch and that the covered porch will have the same the roofline and architectural design as the residence.
4. The petitioners testified that they have spoken with their neighbors and that the neighbors support the variance request. A letter of support from the petitioners' homeowner's association was entered into the record as Exhibit No. 17.

FINDINGS OF THE BOARD

Based on the petitioners' binding testimony and the evidence of record, the Board finds that the variance can be granted. The requested variance complies with the applicable standards and requirements set forth in Section 59-G-3.1 as follows:

(a) By reason of exceptional narrowness, shallowness, shape, topographical conditions, or other extraordinary situations or conditions peculiar to a specific parcel of property, the strict application of these regulations would result in peculiar or unusual practical difficulties to, or exceptional or undue hardship upon, the owner of such property.

The property is a uniquely shaped lot, which narrows to approximately 38 feet at its northern tip. The covered porch will replace an existing one-story addition. The Board finds that the irregular shape of the lot is unique and peculiar to the property and that the strict application of the regulations results in an undue hardship upon and practical difficulties to the petitioners.

(b) Such variance is the minimum reasonably necessary to overcome the aforesaid exceptional conditions.

The Board finds that the requested variance for the construction of a covered porch is the minimum reasonably necessary to overcome the unique conditions of the property.

(c) Such variance can be granted without substantial impairment to the intent, purpose and integrity of the general plan or any duly adopted and approved area master plan affecting the subject property.

The proposed construction will continue the residential use of the property and the variance will not impair the intent, purpose, or integrity of the general plan or approved area master plan.

(d) Such variance will not be detrimental to the use and enjoyment of adjoining or neighboring properties.

The Board finds that the proposed construction will be in harmony with the architectural design of the residence and that the requested variance will not be detrimental to the use and enjoyment of the adjoining and neighboring properties. The record contains no testimony or correspondence in opposition to the variance request, the record does contain a letter of support from the petitioners' homeowner's association.

The Board adopted the following Resolution:

1. The petitioners shall be bound by all of their testimony and exhibits of record, and the testimony of their witnesses, to the extent that such evidence and representations are identified in the Board's opinion granting the variance.
2. Construction must be completed according to plans entered in the record as Exhibit Nos. 4(b) and 5(a) and 5(b).

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland, that the opinion stated above be adopted as the Resolution required by law as its decision on the above entitled petition.

On a motion by Allison Ishihara Fultz, seconded by Donna L. Barron, with Angelo M. Caputo, Louise L. Mayer and Donald H. Spence, Jr., Chairman, in agreement, the Board adopted the foregoing Resolution.

Donald H. Spence, Jr.
Chairman, Montgomery County Board of Appeals

I do hereby certify that the foregoing
Opinion was officially entered in the
Opinion Book of the County Board of
Appeals this 4th day of January, 2002.

Katherine Freeman
Executive Secretary to the Board

NOTE:

See Section 59-A-4.53 of the Zoning Ordinance regarding the twelve-month period within which the variance granted by the Board must be exercised.

The Board shall cause a copy of this Opinion to be recorded among the Land Records of Montgomery County.

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date of the Opinion is mailed and entered in the Opinion Book (see Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County in accordance with the Maryland Rules of Procedure.